

## § 214.12

## 8 CFR Ch. I (1–1–03 Edition)

removal will be removed in accordance with Service policy.

[67 FR 4795, Jan. 31, 2002]

### **§ 214.12 Preliminary enrollment of schools in the Student and Exchange Visitor Information System (SEVIS).**

(a) Private elementary and private secondary schools, public high schools, post-secondary schools, language schools, and vocational schools are eligible for preliminary enrollment in Student and Exchange Visitor Information System (SEVIS), beginning on or after July 1, 2002, but only if the school is accredited by an accrediting agency recognized by the United States Department of Education, CAPE, or AACSB, or in the case of a public high school, the school provides certification from the appropriate public official that the school meets the requirements of the state or local public educational system and has been continuously approved by the Service for a minimum of three years, as of July 1, 2002, for the admission of F or M non-immigrant students. A school may establish that it is accredited by showing that it has been designated as an eligible school under Title IV of the Higher Education Act of 1965.

(b) Preliminary enrollment in SEVIS is optional for eligible schools. The preliminary enrollment period will be open from July 1, 2002, through August 16, 2002, or, if later, until the Service begins the SEVIS full scale certification process. The process for eligible schools to apply for preliminary enrollment through the Internet is as follows:

(1) Eligible institutions must access the Internet site, <http://www.ins.usdoj.gov/sevis>. Upon accessing the site, the president, owner, head of the school or designated school official will be asked to enter the following information: the school's name; the first, middle, and last name of the contact person for the school; and the e-mail address and phone number of the contact person.

(2) Once this information has been submitted, the Service will issue the school a temporary ID and password, which will be forwarded to the e-mail address listed. When the contact person

receives this temporary ID and password, the school will again access the Internet site and will electronically enter the school's information for its Form I-17.

(c) The Service will review the information by a school submitted as provided in paragraph (b) of this section, and will preliminarily enroll a school in SEVIS, if it is determined to be eligible under the standards of paragraph (a) of this section. If the officer determines that the school is eligible for preliminary enrollment, the officer will update SEVIS and enroll the school and permanent user IDs and passwords will be automatically generated via e-mail to the DSOs listed on the Form I-17. Schools that are not approved by the Service for preliminary enrollment will be notified that they must apply for certification in accordance with the Interim Certification Rule. A school that is granted preliminary enrollment will have to use SEVIS for the issuance of any new Form I-20 to a new or continuing student.

(d) Schools granted preliminary enrollment in SEVIS will not have to apply for certification at this time. However, all such schools will be required to apply for certification, and pay the certification fee, prior to May 14, 2004.

(e) Eligible schools that meet the standards of paragraph (a) of this section, but do not apply for preliminary enrollment in SEVIS prior to the close of the preliminary enrollment period will have to apply for certification review under the Interim Certification Rule and pay the certification fee before enrolling in SEVIS. However, once a school meeting the standards of paragraph (a) of this section applies for certification review, the Service will have the discretion, after a review of the school's application, to allow the school to enroll in SEVIS without requiring an on-site visit prior to enrollment. If the Service permits such a school to enroll in SEVIS prior to completion of the on-site visit, the on-site visit must be completed prior to May 14, 2004.

(f) Schools that are not eligible to apply for preliminary enrollment in SEVIS under this section—including

flight schools—will have to apply for certification under the Interim Certification Rule, pay the certification fee, and undergo a full certification review including an on-site visit, prior to being allowed to enroll in SEVIS.

[67 FR 44346, July 1, 2002]

**§ 214.15 Certain spouses and children of lawful permanent residents.**

(a) *Aliens abroad.* Under section 101(a)(15)(v) of the Act, certain eligible spouses and children of lawful permanent residents may apply for a V nonimmigrant visa at a consular office abroad and be admitted to the United States in V-1 (spouse), V-2 (child), or V-3 (dependent child of the spouse or child who is accompanying or following to join the principal beneficiary) nonimmigrant status to await the approval of:

- (1) A relative visa petition;
- (2) The availability of an immigrant visa number; or
- (3) Lawful permanent resident (LPR) status through adjustment of status or an immigrant visa.

(b) *Aliens already in the United States.* Eligible aliens already in the United States may apply to the Service to obtain V nonimmigrant status for the same purpose. Aliens in the United States in V nonimmigrant status are entitled to reside in the United States as V nonimmigrants and obtain employment authorization.

(c) *Eligibility.* Subject to section 214(o) of the Act, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 203(d) of the Act) of an immigrant visa petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, may apply for V nonimmigrant status if:

- (1) Such immigrant visa petition has been pending for 3 years or more; or
- (2) Such petition has been approved, and 3 or more years have passed since such filing date, in either of the following circumstances:

(i) An immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 203(a)(2)(A) of the Act; or

(ii) The alien's application for an immigrant visa, or the alien's application for adjustment of status under section 245 of the Act, pursuant to the approval of such petition, remains pending.

(d) *The definition of "pending".* For purposes of this section, a pending petition is defined as a petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, that has not been adjudicated. In addition, the petition must have been properly filed according to § 103.2(a) of this chapter, and if, subsequent to filing, the Service returns the petition to the applicant for any reason or makes a request for evidence, the petitioner must satisfy the Service request within the time period set forth at § 103.2(b)(8) of this chapter. If the Service denies a petition, but the petitioner appeals that decision, the petition will be considered pending until the administrative appeal is decided by the Service. A petition rejected by the Service as not properly filed is not considered to be pending.

(e) *Classification process for aliens outside the United States.*

(1) *V nonimmigrant visa.* An eligible alien may obtain a V nonimmigrant visa from the Department of State at a consular office abroad pursuant to the procedures set forth in 22 CFR 41.86.

(2) *Aliens applying for admission to the United States as a V nonimmigrant at a port-of-entry.* Aliens applying under section 235 of the Act for admission to the United States at a port-of-entry as a V nonimmigrant must have a visa in the appropriate category. Such aliens are exempt from the ground of inadmissibility under section 212(a)(9)(B) of the Act.

(f) *Application by aliens in the United States.* An alien described in paragraph (c) of this section who is in the United States may apply to the Service to obtain V nonimmigrant status pursuant to the procedures set forth in this section and 8 CFR part 248. The alien must be admissible to the United States, except that, in determining the alien's admissibility in V nonimmigrant status, sections 212(a)(6)(A), (a)(7), and (a)(9)(B) of the Act do not apply.